IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

WP(C).No. 23190 of 2003(I)

PETITIONER:

DR. E.J.SARAMMA, PANAECKAL HOUSE,
AYYANTHOLE, TRICHUR-3

BY ADV. SRI.TOMY SEBASTIAN

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY THE
CHIEF SECRETARY TO THE GOVERNMENT, SECRETARIAT,
TRIVANDRUM.

2. THE SECRETARY, DEPARTMENT OF ANIMAL
HUSBANDRY, TRIVANDRUM

3. THE DISTRICT ANIMAL HUSBANDRY OFFICER,
TRICHUR.

BY GOVERNMENT PLEADER SMT.SMITHA SUKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF GO(MS) No.295/96/AD DT 30.9.1996.

EXT.P2: COPY OF THE ORDER OF APPOINTMENT DT. 30.10.1999.

EXT.P3: COPY OF G.O.(P) NO.1088/98/FIN DT.23.3.1998.

EXT.P4: COPY OF THE G.O.(P).NO.201/99/FIN DT.16.1.1999.

EXT.P5: COPY OF G.O.(P) NO.946/2000/FIN DT. 7.6.2000.

EXT.P6: COPY OF THE PROCEEDINGS OF THE DISTRICT ANIMAL HUSBANDRY OFFICER, TRICHUR DT.16.10.2000.

EXT.P7: COPY OF G.O.(P) NO.721/2001/FIN DT,27.4.2001.

EXT.P8: COPY OF THE PROCEEDINGS DT.29.11.01 OF THE DISTRICT ANIMAL HUBANDRY OFFICER, TRICHUR.

EXT.P9: COPY OF THE JUDGMENT IN O.P.NO.5451 OF 2002 DT 19.2.2002.

EXT.P10: COPY OF THE ORDER OF THE DIRECTOR, ANIMAL HUSBANDRY DATED 3.3.2001.

EXT.P11: COPY OF THE REPLY DATED 7.4.2003.

EXT.P12: COPY OF THE POSTAL ACKNOWLEDGMENT CARD.

EXT.P13: COPY OF THE APPROXIMATE ARREARS PARTICULARS OF THE PETITIONER FOR THE PERIOD FROM 25.11.1999 TO 24.11.2001.

EXT.P14: THE ABSTRACT OF THE TOTAL DUES PAYABLE TO THE PETITIONER.

TRUE COPY

P.A.TO JUDGE

THOTTATHIL B.RADHAKRISHNAN,J

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O.P.No.23190 of 2003

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Dated this the 20th day of July, 2007

JUDGMENT

The petitioner superannuated on 31.5.1998 from the Animal Husbandry Department was re-employed for a period of two years from 25.11.1999. Her complaint is that the amounts due to her on account of such re-employment has not been determined in terms of Ext.P7 Government Order which obviously applies because the said Government Order is applied for the purpose of preparing the statement of re-fixed honorarium in respect of the petitioner issued as per Ext.P8. Ext.P7 provides that illustration on the basis of which the workings have to be made to reach at the amount that is payable. The gross salary is to be determined by adding the components (a), (b), (c) and (d) as stated in the said Government order. According to the petitioner, though that formula applies in view of the applicability of Ext.P7 Government order, determination of the last pay drawn by her reflected under Ext.P8 is not in accordance with Ext.P7. The petitioner has no quarrel about the

amounts that are to be deducted on account of pension etc. from that last pay for the purpose of determining the amount due to be paid during the period of re-employment. Hence, the only controversy is as to whether the total amount that could be treated as the last pay for the purpose of determining the emoluments during re-employment is in terms of Ext.P7 Government Order. If the respondents concluded that it is not Ext.P7 that applies to the case of the petitioner, notwithstanding the reference made that Government Order in Ext.P8, the decision shall be taken under Rule 100 Part III of Kerala Service Rules, in the light of Rule 12(23) Part I K.S.R to determine the emoluments on re-employment. In the light of what is stated above, a final decision shall be rendered within a period of four months from the date of receipt of a copy of this judgment. If further amounts are found due to the petitioner on such calculation those, amounts shall be released to the petitioner.

THOTTATHIL B.RADHAKRISHNAN, JUDGE

dvs